

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

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TOBIAS THOMAS and FERNANDO THOMAS,

Plaintiffs,

- against -

**STIPULATION AND ORDER
OF SETTLEMENT AND
DISCONTINUANCE**
09 CV 1189 (JBW)(RER)

THE CITY OF NEW YORK, JERRY BOWENS,
UC 4829, the name being presently unknown, UC
312, the name being presently unknown, KAREEM
ANDERSON, MICHAEL ARENELLA, "JOHN"
BAYAS, the first name being unknown, MANUEL
FERNANDEZ, ARKMEEK HUNTER
GERARD SARDINA, BRIAN TURNER, and
JANE DOE, the name being presently unknown,

Defendants.
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WHEREAS, plaintiffs commenced this action by filing a complaint on or about March 23, 2009 and an Amended Complaint on or about July 24, 2009 alleging that defendants violated their federal civil and state common law rights; and

WHEREAS, defendants have denied any and all liability arising out of plaintiffs' allegations; and

WHEREAS, the parties now desire to resolve the issues raised in this litigation, without further proceedings and without defendants admitting any fault or liability; and

WHEREAS, plaintiffs have authorized their counsel to settle this matter on the terms set forth below:

NOW, THEREFORE, IT IS HEREBY STIPULATED AND AGREED, by and

between the undersigned, as follows:

1. The above-referenced action is hereby dismissed with prejudice, and without costs, expenses, or fees in excess of the amount specified in paragraph "2" below.
2. The City of New York hereby agrees to pay plaintiff FERNANDO THOMAS the total sum of THIRTY-FIVE THOUSAND DOLLARS (\$35,000.00) and to TOBIAS THOMAS

the total sum of TWENTY-FIVE THOUSAND DOLLARS (\$25,000.00) in full satisfaction of all claims, including their claims for costs, expenses and attorney fees. In consideration for the payment of these sums, plaintiffs agree to dismissal of all the claims against the City of New York and to release the individually named defendants, Jerry Bowens, UC 4829, UC 312, Kareem Anderson, Michael Arenella, "John" Bayas, Manuel Fernandez, Arkmeek Hunter, Gerard Sardina, Brian Turner, and Jane Doe, and any present or former employees or agents of the City of New York, from any and all liability, claims, or rights of action that have or could have been alleged by plaintiffs in this action arising from and contained in the complaints in this action, including claims for costs, expenses and attorney fees.

3. Plaintiffs shall execute and deliver to defendants' attorney all documents necessary to effect this settlement, including, without limitation, general releases based on the terms of paragraph "2" above and Affidavits of No Liens.

4. Nothing contained herein shall be deemed to be an admission by the City of New York, Jerry Bowens, UC 4829, UC 312, Kareem Anderson, Michael Arenella, "John" Bayas, Manuel Fernandez, Arkmeek Hunter, Gerard Sardina, Brian Turner, and Jane Doe, that they have in any manner or way violated plaintiffs' rights, or the rights of any other person or entity, as defined in the constitutions, statutes, ordinances, rules or regulations of the United States, the State of New York, or the City of New York or any other rules, regulations or bylaws of any department or subdivision of the City of New York. This stipulation shall not be admissible in, nor is it related to, any other litigation or settlement negotiations.

5. Nothing contained herein shall be deemed to constitute a policy or practice of the City of New York or any agency thereof.

6. This Stipulation and Order contains all the terms and conditions agreed upon by the parties hereto, and no oral agreement entered into at any time nor any written agreement entered into prior to the execution of this Stipulation and Order regarding the subject

matter of the instant proceeding shall be deemed to exist, or to bind the parties hereto, or to vary the terms and conditions contained herein.

Dated: New York, New York


~~August~~, 2009


September 15

MICHAEL A. CARDOZO

Corporation Counsel of the City of New York

Attorney for Defendant City of New York


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SO ORDERED:

U.S.D.J.